IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
WRIT PETITION NO.9715 OF 2014

Ashok B.Shilwant .. Petitioner
vs
National Co-operative Consumers
Federation of India Ltd .. Respondent

Mr.Nitesh V.Bhutekar for Petitioner
Mr.Jayprakash Sawant for Respondent

CORAM: ANOOP V.MOHTA AND
G.S.KULKARNI, JJ
DATE: 15 FEBRUARY 2016

ORDER:

Rule. Returnable forthwith. Heard finally.

1. The Petitioner was working with the Respondent since March 1972. On attaining the age of superannuation i.e. 58 years as per Service Rules on 13 January 2010 he retired. A day before retirement he received a Memorandum dated 29 November 2010 whereby all retirement benefits of the Petitioner was decided to be settled only on receipt of clearance from Vigilance Department.

2. Learned counsel for the Respondents was unable to place on record any Regulation whereby such retirement benefits could be retained pending the so-called clearance from Vigilance. A Reference is made to a Supreme Court Judgment in ***RAMESH CHANDRA SHARMA VS***

PUNJAB NATIONAL BANK. (2007 (9) SCC 15.Based upon Circular No.44/12/07 dated 28 December 2007 after rejecting the same as well as the Circular, it is clear that the Supreme Court has dealt with the typical Regulation/Service Conditions between the parties and held that such action could be taken based upon Rules if prescribed and/or provided. In the present case, as recorded there are no such Rules/Regulations whereby the Respondents can withheld such retirement benefits pending inquiry. In the present case as noted such Office Memorandum is also issued for events which took place from the year 2006 to 2009. There was no such Memorandum issued earlier. Therefore, in the present facts and circumstances for want of specific Regulations, we are inclined to grant reliefs so claimed by the Petitioner as pensionary benefits. Basically, in the present case, leave encashment ought not to have been retained in such a fashion. The Respondents are therefore, directed to release the amount of leave encashment as prayed.

3. The question which remains is the interest amount which the Petitioner is also pressing at the rate of 18 %. Such amount is stated to be retained illegally. For reasons so recorded above, we are

inclined to grant interest but, the same should at the rate of 8% from the date of entitlement of the benefits to the Petitioner. Further, it is made clear that the Respondents are at liberty to initiate proceedings if any, permitted and/or provided under the Regulations as on the date of retirement.

4. Petition is disposed of. Rule is made absolute accordingly. No costs.

G.S.KULKARNI, J **ANOOP V.MOHTA J**